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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/717,780	11/20/2003	Jean Joseph Collette	DN2003182	8395

27280 7590 03/14/2006

THE GOODYEAR TIRE & RUBBER COMPANY
INTELLECTUAL PROPERTY DEPARTMENT 823
1144 EAST MARKET STREET
AKRON, OH 44316-0001

EXAMINER

MAKI, STEVEN D

ART UNIT	PAPER NUMBER
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1733

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action Before the Filing of an Appeal Brief	Application No. 10/717,780	Applicant(s) COLLETTE ET AL.	
	Examiner Steven D. Maki	Art Unit 1733	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 27 February 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☒ They raise the issue of new matter (see NOTE below);
 (c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: see advisory action attachment. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
 5. ☒ Applicant's reply has overcome the following rejection(s): see advisory action attachment.
 6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
 7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
 The status of the claim(s) is (or will be) as follows:
 Claim(s) allowed: _____
 Claim(s) objected to: _____
 Claim(s) rejected: 1,4-16 and 18-20.
 Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
 9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
 10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see advisory action attachment.
 12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). _____
 13. ☐ Other: _____

Advisory Action Attachment

The new issues and issues of new matter are (1) amending claim 1 to recite "at least one plane of each recess initiates a plane of an adjacent protrusion and at least one plane of each protrusion initiates a plane of an adjacent recess" and (2) amending claim 15 to recite "at the blade centerline, at least one plane of each recess initiates a plane of an adjacent protrusion and at least one plane of each protrusion initiates a plane of an adjacent recess".

In view of applicant's arguments in the after final amendment filed 2-27-05, the 102(b) rejection over Japan 925 and the 103 rejection using Japan 925 have been withdrawn. Also, the 103 rejections using Ishihara as a primary reference have been withdrawn. In other words, Ishihara has been removed from the rejections in paragraphs 7-9 of the final office action dated 12-1-05. The heading for paragraph 7 of the final office action is therefore "Claims 1, 4-7, 9-11, 13, 15-16 and 18-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lagnier 002 (US 5783002) in view of at least one of Japan 923 and Japan 925."

Applicant argues that Lagnier 002 teaches away from forming any type of vertex configuration other than the rounded vertex. The examiner disagrees. Lagnier 002 teaches toward protrusions and cavities having a quadrilateral base such as a square, rectangle, etc. (col. 2 lines 1-9, 23-26). Lagnier expressly suggests using straight line segments as an alternative to circular arcs (col. 2 lines 23-31). Although Lagnier teaches an example in which the vertices are rounded (e.g. figure 3), Lagnier contains no disclosure that a rounded vertex must be used. Furthermore, Japan 923 or Japan

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925 suggest using a planar vertex instead of a rounded vertex for sipes, which like that of Lagnier 002, have protrusions extending from both walls thereof. Furthermore, Japan 923, like Lagnier 002, teaches alternating protrusions and cavities for a sipe / mold blade and indicates a preference for using planar vertices (instead of rounded vertices) for the protrusions and cavities. Compare (A) figures 7, 13 and 15 with (B) figure 16 of Japan 923.

Allowable Subject Matter

Claims 1 and 15 would be allowable if (2) rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112 set forth in the final office action and (2) amended to include the hexagon shape for the protrusions and cavities shown in figures 6A and 6B of applicant's disclosure.

Although use of a hexagon shape for a sipe is known per se as evidenced by Japan 923 (paragraph 23 of machine translation) and Heinen (figure 8), the prior art of record including Japan 923 and Heinen offer no motivation to replace the quadrilateral base of Lagnier 002 with a hexagon base in combination with providing the vertices of Lagnier 002 with a planar shape.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven D. Maki whose telephone number is (571) 272-1221. The examiner can normally be reached on Mon. - Fri. 8:30 AM - 5:00 PM.

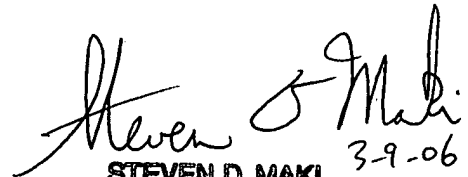
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Crispino can be reached on (571) 272-1226. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Steven D. Maki
March 9, 2006


STEVEN D. MAKI 3-9-06
PRIMARY EXAMINER